

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-212860

DATE: July 23, 1984

MATTER OF: Champion Road Machinery International
Corporation

DIGEST:

1. Where model offered is identified in bid by number and bid does not qualify offeror's obligation to furnish item meeting the specifications, the bid is responsive.
2. Protest against low bidder's ability to perform a contract according to specifications concerns matter of responsibility and GAO does not review a contracting officer's affirmative determination of responsibility except in limited circumstances not applicable here.
3. Whether a bidder will be able to comply with specification requirements during performance of contract is a matter of contract administration which GAO will not consider.

Champion Road Machinery International Corporation (Champion) protests the award of a contract for motorized road graders to John Deere and Company (Deere), under invitation for bids (IFB) No. DLA700-83-B-0669, issued by the Defense Logistics Agency (DLA).

We dismiss the protest in part and deny it in part.

Champion contends that the model Deere intends to supply under the contract does not meet the required specifications. The solicitation called for a quantity of type II, size 5, motorized road graders in accordance with federal specification 00-G-630E and provided a listing of characteristics determined necessary to the needs of the government. The product identified by Deere in its bid was a 670-A motor grader. Champion contends that Deere's offered equipment does not meet the IFB weight specification requirements and may not be ready for production at the time of performance. Champion presented a copy of Deere's purchasing guide to demonstrate that Deere's offered model

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would have an operating weight which is less than the minimum operating weight required by the specifications.

DLA indicates that the Deere 670-A motor graders--series I or series II--conform to IFB specifications and that Deere made an unequivocal offer to conform. DLA says that the protest should be dismissed as a matter involving an affirmative determination of responsibility or as a matter of contract administration.

We have held that a procuring agency should reject as nonresponsive a bid including a model number it knows describes a nonconforming product. Twehouse Excavating Company, Inc., B-208189, Jan. 17, 1983, 83-1 C.P.D. ¶ 42. In Twehouse, the model number on the bid was not of the class of equipment requested. Thus, the information submitted by the bidder, which was required for the purpose of determining responsiveness, indicated that the bid was nonresponsive. Here, however, nothing in the Deere bid indicates that Deere does not intend to comply with the specifications.


In addition, the solicitation did not require the specification model number to determine responsiveness. See Caterpillar Tractor Company, B-222019, Oct. 17, 1983, 83-2 C.P.D. ¶ 462. For example, provision L06 states in pertinent part:

"[A]ny reference by offerors to model or part number will be assumed to mean that the supplies so referenced conform to specifications or will be modified to conform, unless it is clear from the offer or accompanying papers that an alternate offer is intended."

Since there is nothing in the Deere bid which shows that it will not comply or that Deere took exception to the solicitation requirements, there is no basis to view Deere's bid as nonresponsive. Gavlon Industries, Inc., B-199584.2, Sept. 5, 1980, 82-1 C.P.D. ¶ 402.

Whether Deere will furnish the grader in accordance with the specifications is a matter of responsibility. Domar Industries, B-209861, Dec. 30, 1982, 82-2 C.P.D. ¶ 589. This Office will not review an affirmative

determination of responsibility where, as here, fraud on the part of the contracting officer has not been alleged or definitive responsibility criteria in the solicitation have not been applied. Arvco Containers Corporation, B-214908, Apr. 24, 1984, 84-1 C.P.D. ¶ 475. Moreover, whether the specification requirements are met during performance of the contract is a matter of contract administration which GAO will not consider. BVI Engravers, Inc., B-208830, Oct. 20, 1982, 82-2 C.P.D. ¶ 351.

for 
Comptroller General
of the United States